IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 37 OF 2006

IN

SUIT NO. 3813 OF 2000

Atcom Technologies Ltd .....Plaintiffs.
vs.
Y.A.Chunawalla & Co.
and Ors. .....Defendants.
AND
M/s.Emerald Court Co-op
Hsg.Soc.Ltd ....Respondents
AND
Najmi A.Rangwalla ....Applicant

Ms.S.P.Trivedi i/by.A.Bharat & Co.

for the plaintiff/applicant.

Mr.Chirag Balsara i/by.Divya Shah & Associates

for defendant no.2.

CORAM: S.J.VAZIFDAR, J.

DECEMBER 4 , 2006.

P.C. :

1. By this Notice of Motion, the applicant who is not a party to the proceedings has sought the setting aside of orders of this court dated 9/10/2000 and 2/2/2001. By the said orders the

Court Receiver stands appointed in respect of Flat No.-A-601,Emerald Court Co-operative Housing Society Ltd, Andheri.

2. According to the applicant, defendant no.2 sold the said flat on 26/3/1998 to her at a price of Rs.18 lacs. The entire consideration was paid. However the applicant has not given possession of the said flat.

3. Ultimately, the MOU was executed in June 2004 between the applicant and defendant no.2, a copy whereof was tendered in the court by the applicant. The MOU prima-facie establishes that the applicant agreed to receive monetary compensation of Rs.31 lacs for the cancellation of the said agreement.

4, As stated above the order dated 9/10/2000 came to be passed by this court appointing the Court Receiver. Thereafter on 27/11/2005 the plaintiff claims to have been put in possession of the flat by defendant no.2. She produced the deed allegedly handed over by defendant no.2. Mr. Balsara,

appearing on behalf of defendant no.2 denied that he has ever given possession of the said flat. It is not necessary to consider the rival contentions as prima-facie the flat in any event, requires to be protected subject to any proceedings that the applicant may adopt.

5. In the circumstances, pending the hearing and final disposal of the suit the Court Receiver shall appoint any party including the applicant as his agent on the usual terms and conditions. Subject to the applicant offering the best terms and conditions the Court Receiver shall appoint her as agent in the suit premises.

6. It is clarified that this order is without prejudice to the rights of the applicant to adopt independent proceedings to have her alleged rights determined. This order shall be subject to any interim orders that may be obtained by the applicant in such proceedings.

. Notice of Motion is accordingly disposed off.

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